FILED
04-655 NOV 4 - 2004
OFFICE OF THE CLERK

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

In Re: Ralph Urban,

Debtor-Appellant,

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
2nd Circuit

PETITION FOR A WRIT OF CERTIORARI

Ralph Urban, *Petitioner*
P.O. Box 1010
Cooper Square Station
New York, N.Y. 10276
Telephone No. off-record

QUESTIONS PRESENTED

1. Does the "mere" listing of Property in Bankruptcy Schedules A&B Automatically protect that Property against Seizures under the Automatic Stay (11 USC 362a.)

2. Is the "mere purchase" of a "lien" against a debtor (frustrating the debtor's Equity of Redemption,) VOID by operation, under 11 USC 362(a)(1-7.)

3. Is there a Fundamental Right to have an offending entity declared in contempt of and/or punished under 11 USC 362h, for wholesale violations of the Stay (11 USC 362a;) and is such a denial appealable as a "final" order; especially when the Violations frustrate a debtor's right to get a pre-approved Chapter 11 Plan Ratified.

4. Is a Sheriff's seizure of Property (without notice or compensation,) a violation of the "taking clause."

5. Is it a 14th Amendment Denial of Equal Protection state & Fed courts to REFUSE a minority Real Estate owner a hearing to challenge, a Sheriff Seizure without notice.

6. Should this Court exercise supervision over a 17 Year real estate case, floundering in the Federal Courts for 13 years; after 3+ years in state court – without solution.

7. Does the arbitrary refusal of a US Bankruptcy Judge to Ratify a sensible pre-approved Chapter 11 Plan, constitute a fundamental Violation.

8. Is there a 9th Amendment Right to freedom of enterprise. And is the biased destruction of a minority (self-employed) business constitute a Violation of the 1964 Civil Rights Act's prohibition against employment discrimination.

LIST OF PARTIES TO PROCEEDING

NYC Parking Violations Bureau; Dept of finance; 345 Adams Street; Brooklyn, NY. Att: Mr.Levy esq

Patricia Fairman, PO Box 1184, Mays Landing, NJ 08330

Saperston & Day, 800 First Federal Plaza, NY 14614. Att: Mr. George Mackey, esq

Yates County Treasurer c/o, Yates County Attorney, 415 Liberty Street, Penn Yan, NY 14527

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TABLE OF AUTHORITIES

Evans v Abney **396 US 435** (1970) (the lapse of an intervening conveyance Reverts Title by oper.)

Newbern v Barnes, 165 SE 3d 526 (1969) (Title of Land is never lost without notice.)

Budget v Better Homes 804 F2d 289 (4th Cir 1986) (BC must discipline offending entity.)

11 USC 362(a) Automatic Stay; stops all attacks against a debtor and/or his Estate.

11 USC 362(h) Mandates disciplinary action against an offending entity; who ignores the Stay.

11 USC 541(a)(1) (Fed definition of Estate Property, protected by the Stay-11US362a.)

NYS-CPLR 5235 (Sheriff Levy & Seizure without notice or a hearing.)

28 USC 1292(a)(1) Injunctive relief demanding a Stay and a hearing to challenge Sheriff Seizure

NYS-RPTL sec 1164 (Mandatory "merger" of "Tax Foreclosure" with pre-existing Fed Adversary Complaint – which never happened.)

NYS-RPTL sec 926-4 (surplus of Tax Sale goes to recognized "owner" of the land – Haag/Tuttle.)

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE 2nd CIRCUIT

OPINIONS BELOW

US Bankruptcy Court Refused to hold a serial Violator of the Automatic Stay, 11USC362a, (Hurley,) in contempt and/or impose any 11USC362h discipline, Violating petitioner Urban's Equal Protection rights.

Bankruptcy also Refused to Ratify a pre-approved Chap 11 Plan, on the baseless objections of a Non-creditor (Hurley) who has NO VOTE, nor Voice in the matter; again denying petitioner Urban's Equal Protection.

Bankruptcy Court Dismissed a vital Chapter 11, on the baseless/HATEFUL ex-parte Letters & Motions of a Non-creditor (Hurley) who has No VOTE nor Voice in the Chapter 11; violating petitioner Urban's Equal Protection rights.

JURISDICTION

(i) Date of Orders to be reviewed:

8/6/04, 2nd Circuit, USCA, order dismissing petitioner's Chapter 11 Appeal to 2nd Circuit, "sua sponte." But it is Not "sua sponte" because Hurley who is NOT a creditor nor a party to my Chapter 11, made convoluted Prejudicial motions to dismiss the Chap 11 Appeal.

___/___/03 District Court dismissal of Appeal from bankruptcy court on Procedural grounds: that Urban failed to secure an honest Transcript from Dole Reporting (with a monopoly contract with bankruptcy court SD/NY,) which arrogantly REFUSED to produce an accurate transcript Noting Urbna's attorney (Ms. Ivy Alexander,) and showing Judge Beatty's Hateful comments - which mysteriously disappeared from the final version of the Transcript.

10/28/02 US Bankruptcy Court Order denying motions for contempt, etc., dismissing Chapter 11

(ii) No Rehearing

(iii) No Cross Petition.

(iv) Jurisdictional Statutes: 28 USC 1292(a)(1); 28 USC 1251(b)(2); 28 USC 1334(a); 28 USC 158(a) & (d); 28 USC1257(2).

(v) NO U.S. as a Party.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14th Amendment prohibition against abridging ANY Rights, and/or denying due process, and/or Equal Protection.

4th Amendment prohibition against any unreasonable seizures.

5th Amendment prohibition against the privation of Property without due process,

9th Amendment freedom of enterprise.

1964 Civil rights Act; prohibition against employment discrimination, through the destruction of a self-employed business.

NYS-CPLR 5235 (Sheriff Levy & Seizure without notice or a hearing.)

STATEMENT OF THE CASE

In 1991 Urban filed for chapter 11 protection (#91-B-15142-PCB,) and listed 103 acres in the Schedules: (a) 30 acres in Schedule "A" as owed outright (in fee simple) by Urban; and (b) 73 acres "owned equitably" by Urban due to the "incomplete" cancellation of the Haag 73 acres Purchase, due to vague pre-bankruptcy state court judgments.

Also, in 1991 Urban commenced Adversarial Complaint (# 91-6570A,) v Haag & Tuttle to address land Taxes due to Yates County (and who owed them;) and the title to the 73 acres which Urban demanded in exchange for the Refund, etc.

However, Hurley and Yates County ignored all that, defied the Automatic Stay (11US362a), and conducted a "Tax Foreclosure," after the County filed a Proof of Claim #3 against Urban, for taxes on all 103 acres, they then "foreclosed" on without lifting the Stay.

Then, amazingly Judge Beatty refused to hold anybody in Contempt, and claimed Urban had "Lost" title to the 73 acres, plus 2 acres horse barn, and had to "sue" the County to "recover" the land and transferred Adv. Complaint to WD.

Rather than suffer the prohibitive costs of unnecessary litigation in the Western District, Urban amended Chapter 11 Plan, Withdrawing the Adversarial Complaint.

Judge Ninfo WD/NY, Rejected Withdrawal, which he Had NO Standing to do, since he was overreaching into the Main case Plan NOT before him (the Chap 11 stayed in SD/NY;) and conducted a bogus illegal NON-JURY Trial, accepting fraudulent, incompetent, inadmissible factual "evidence" to "decide" an Issue of Law (the academic question of who owns what land;) an issue NOT Urban's complaint. The issue of Urban's Adversary Complaint is that if Haag retained Title to the 73 acres, Urban did NOT "owe" her ANY Refund on that "aborted" land purchase, because there was NO abortion; and if Urban did "owe" her the Refund, then (by operation of law) Urban still owns the 73/75 acres; urban cited this Court's: *Evans v Abney*, **396 US 435 (1970.)**

Judge Beatty, BJ/SD, sarcastically Rejected and **Repudiated** this court's *Evans*, and left is unsaid she thought Urban to be a total jerk, and INSANE for making this argument.

Judge Beatty, SD/NY, also arbitrarily Refused to hold Hurley in Violation of Stay for any reason; Refused to Ratify the pre-approved Plan; and then Dismissed Urbna's Chapter 11, all together; violating all of Urban's Rights to Equal Protection.

Then, Hurley used the illegal "purchase" of Haag's Refund Judgment (for $1,000.) and used it to fraudulently arrange a Sheriff's Seizure and sale of Urban's 28 acres NOT sold to Haag&Tuttle; a 14th Amendment Violation.

REASONS FOR GRANTING PETITION

Because all the lower courts have dropped the ball, and floundered for 17 Years (13 Years in various Federal Courts,) and have engaged in wholesale violations of Petitioner's fundamental rights, and allowed a mockery of justice, and allowed a self-confessed Hate-Monger (Hurley) with the "Full Support" of a local political machine (a Political subdivision of a State) to engage in the wholesale violation of Petitioner's due process and Equal Protection Rights.

And, because this Court has a Public Interest responsibility to review a case like this, when one happens along – since **ONE case** like this (that reaches this Court,) represents (10) **ten Million** that do NOT, and go away quietly into that good night.

And, because most people who get similarly abused, are usually illiterate illegal aliens, etc, who are disfranchised lonely people, who have no-one to turn to; and simply "take the loss" and go away without a whimper of protest; under **threat** of losing life, or limb, or being jailed on trumped up charges.

CONCLUSION

For the reasons set forth above, this petition should be granted.

Respectfully submitted,

_____

Ralph Urban, Petitioner "pro-se"
P.O. Box 1010
Cooper Square Station
New York, N.Y. 10276
Attorneys for the Petitioners

Date: November 1, 2004

S.D.N.Y.
Oc-cv-3588
Kaplan,J.
Francis,M.J

United States Court of Appeals
For the Second Circuit

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the 6th day of August two thousand and four,

Present:

Hon. Barrington G. Parker, Jr.,
Hon. Reena Raggi,
Hon. Peter W. Hall,
CircuitJudges.

[Date Stamp
August 6, 2004]

In re Ralph Urban, Debtor-Appellant, 04-0149-bk

Appellant, pro se, moves to consolidate this appeal with his appeal in Docket No. 03-5046- bk and remove and consolidate a related state court action, and for an extension of time in which to file his brief and appendix. Appellee, prose, moves to dismiss the appeal. Upon due consideration, it is ORDERED that Appellant's motion to consolidate

the two cases on appeal and to remove and consolidate his state court action is denied, and his appeal is dismissed as frivolous. See Pillay v. INS. 45 F.3d 14,17 (2dCir.1995) (this Court has inherent authority to dismiss an appeal as frivolous when it presents no arguably meritorious issue for consideration); Neitzke v. Williams, 490 U.S. 319,325 (1989) (an appeal is frivolous "where it lacks an arguable basis in law or fact"). The remaining motions for an extension of time and to dismiss the appeal are denied as moot.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: Richard Alcantara, Deputy Clerk

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

[Date Stamped Sep 30, 2003]

In re RALPH URBAN,
Debtor-Appellant

03 CIVIL 3588 (LAK)

JUDGMENT

Appel1ant having appealed from an order of the Bankruptcy Court, and the matter having come n before the Honorable Lewis A Kaplan, United States District Judge, and the matter having been referred to the Honorable James C Francis IV, United States Magistrate Judge, who having issued his Report, and the Court, on Sept 29, 2003, having rendered its Order dismissing the appeal for the reasons set forth in the Report, it is,

ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated Sept, 29, 2002, the appeal of the bankcruptcy court is hereby dismissed for the reasons set forth in the Magistrate Judge's Report.

Dated: New York, New York
September 30, 2003

JAMES M. PARKISON
Clerk of Court

BY: (signature not readable)
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: RALPH URBAN,

Debtor/Appellant

03 Civ. 3588 (LAK) (JCF)

REPORT AND RECOMMENDATION

TO THE HONORABLE LEWIS A. KAPLAN, U.S. D.J.:

This is a bankruptcy appeal filed by a debtor, Ralph Urban. Bankruptcy Rule 8002 provides that "[t]he notice of appeal shall be filed with the clerk of the bankruptcy court within 10 days of the date of entry of the judgment, order, or decree appealed from. "Within ten days after the filing the notice of appeal, the appellant must designate the items to be included in the record on appeal. Bankr. Rule 8006. Thereafter, the parties to the appeal must "take any action necessary to enable the clerk to assemble and transmit the record "Bankr. Rule 8006. In order to implement these provisions, the Clerk of the Bankruptcy Court issues a scheduling order requiring the appellant to provide copies of all designated documents to the Clerk's Office no later than thirty days after filing the designation.

In this case, Mr. Urban filed both his notice of appeal and his designation of items on appeal on November 20, 2002. On December 21, 2002, he

requested an additional thirty days to complete the record on appeal because the transcript was not expected to be available for another couple of weeks. However, by May 19, 2003, Mr. Urban had still failed to complete the record on Appeal and the Clerk of the Bankruptcy Court forwarded to this Court a proposed order dismissing the appeal for failure to prosecute.

By Order to Show Cause dated June 25, 2003, I directed Mr. Urban to state in writing by July 15, 2003 why his appeal should not be dismissed. I then granted his request for a ten-day extension of that deadline. Although Mr. Urban again sought additional time to respond, he did not provide a persuasive explanation of his failure to do so to date. Rather, he merely asserted that he is busy with other apparently related litigation. Accordingly, in the absence of a cogent explanation for Mr. Urban's failure to complete the record as mandated by the Bankruptcy Court, I recommend that the appeal be dismissed.

Pursuant to 28 U.S.C. §636 (b) (1) and Rules 72, 6(a), and 6(e) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from this date to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Lewis A. Kaplan, Room 1310, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

Respectfully submitted,

JAMES C. FRANCIS, IV
UNITED STATES MAGISTRATE JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:
RALPH URBAN,
Debtor in possession,

FAIRMAN AFFIDAVIT IN SUPPORT OF, AND VOTE FOR NEW PLAN TO DROP THE CASE
Chapter 11
91-B-15142(PCB)

STATE OF NY.....SS
COUNTY OF NY.....

Creditor, PATRICIA K. FAIRMAN, being duly sworn deposes, says, and agrees:

1. That I am the principle Creditor in above entitled action filing a Proof of Claim on or about 3-11-92, for the sum of $120,000.00 in loans to Mr. Urban, which he used to buy the 103 acre farm (the subject of a 75 acre "foreclosure,") and farm equipment that I have received reliable information was stolen by William C. Hurley.

2. On 3/31/95, I pre-approved a Modified Plan of same date, for Mr. Urban not to contest 73 acres of the questionable 75 acre "foreclosure" (which included the 2 acre horse barn, and the driveway/both indispensable to reorganization,) if Mr. Urban was able to satisfactory resolve the

horse barn and driveway access issues with Hurley, which DID NOT HAPPEN, because Hurley refused to agree to "anything" that would end litigation.

3. That Modified Plan was amended twice again since then seeking to avoid endless litigation with Hurley; with Mr. Urban's offers to "buy" Hurley out laughed at and rejected by Hurley, and Mr. Urbna's offers to "sell" to Hurley also laughed at and rejected "at any price."

4. Mr. Hurley is personally known to me to be a "Radical," (a "tough-guy" PrisonGuard) who gets pleasure out of threatening, frightening, and terrorizing people. He did that from "day one" in mid February, 1988, when he stepped on to the farm yelling at, threatening, terrorizing, and intimidating Mr. Urban. Mr. Hurley bragged he was out to "get" Mr. Urban, for local politicians who were allegedly angered by Mr. Urban's public commercials criticizing them.

5. Mr. Urban is personally known to me to be a "mild-mannered" gentleman, who deplores violence and confrontation, and instead favors diplomacy to settle disputes.

6. These two individuals are fundamentally like oil and water, and they do not mix. For the past 13 Years Mr. Urban tried everything to resolve this controversy, with no avail.

7. I think the time has come for Mr. Urban to

"declare a victory and go home. "I think Mr. Urban has suffered needless aggravation, torture, and torment at the hands of this Mr. Hurley, for, thirteen (13) years.

8. Mr. Urban has accomplished absolutely nothing in the past 13 years, except waste a lot of time and money, and do a lot of unnecessary paperwork, that ended up getting mocked by Hurley's numerous disrespectful lawyers, and even by the courts both at the State and Federal level.

9. It is a sad tragedy when a US citizen (who is a disabled vet) is first robbed in State Court (which conducted a trial without him-and disqualified his attorney;) then robbed again by a County conducting an illegal "foreclosure;" with the Federal Courts acting like invalids with no "power" to do anything about it.

10. This is why I have for years, recommended that Mr. Urban" stop fighting the System," and drop the case.

11. Thank goodness that Mr. Urban has finally come to his senses, and has agreed to do that.

12. Therefore, I fully support Mr. Urban's decision to use Federal Rule 41(a) to dismiss the adversarial complaint, if his challenge to venue change is denied, and he cannot resolve the complaint with a simple motion for summary judgment in the Southern District.

****

THERFORE, I VOTE in FAVOR of Mr. Urban's new PLAN which is to:

(a). drop the adversarial complaint trying to resolve that "never ending problems withHurley;"
(b). leave the property status in its "as is" condition;
c) pay out the small proof of c1aims pending;
(d). get a Discharge, and move on (making arrangements to move the horses away from that maniac,) and get a fresh start elsewhere.

Sworn to before me

On this day August 7 2001

/s/
PATRICIA K. FAIRMAN

/s/
NOTARY

USBC/SDNY
In re Urban

AFFIDAVIT OF SERVICE BY MAIL

Chapter11
91-B-15142(PCB)

STATE OF NEW YORK SS:
COUNTY OF NEW YROK

RALPH URBAN, undersigned debtor in possession, affirms that on this day, August the 8th, 2001, that he served a copy of the Fairman Affidavit in Support of, and Vote for New Plan to Drop the Case, upon all creditors at their following addresses:

NYC Parking Violation Bureau; Dept of Finance; 345 Adams Street; Brooklyn NY: att: Mr. Ron Levy,esq.
Patricia Fairman, PO Box 1184, Mays Landing, NJ 08330
County of Yates, c/o Saperston & Day, 800 First Federal Plaza, Rochester, NY 14614, att: George G. Mackey, esq
County of Yates, c/o Yates County Treasurer, 110 Court Street, Pen Yan, NY 14527

Dated: August 8, 2001

/s/